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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/308,408	06/28/1999	ANDREAS FELLINGER	FLA-0010	6097

7590 09/30/2002

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EXAMINER

LUONG, SHIAN TINH NHAN

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 09/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/308,408

Applicant(s)

FELLINGER, ANDREAS

Examiner

Shian T. Luong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 July 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

2. Claims 16 and 18 are finally rejected under 35 U.S.C. 102(b) as being anticipated by Roulin et al (US 5,695,063). Roulin et al disclose two flexible film materials that are sealed at reference element 11 as shown in Figures 1A-1C to form a plurality of compartments. The cover sheet is torn by finger pressure. Roulin et al disclosed on column 1, lines 24-30 that “Push-through packs are e.g., such that the lid material is of aluminum foil or an aluminum foil laminate. Aluminum foil is a preferred material for the lids on a blister package, as the thickness of the material employed requires relatively little force for it to rupture. The foil is so thin in Roulin et al that even if the reference does not specifically disclose rupturing of the package by placing a finger directly on the cover, the cover is inherently capable of being rupture by pushing the foil inwardly. Applicant argues that the blister pack is not sufficiently flexible such that the storage device can be kept in stock rolled up or concertinaed. This assertion is inaccurate. The blister pack is made out of both flexible foil and flexible plastic material and hence is sufficiently flexible to be kept in a rolled up position.

3. Claim 18 is finally rejected under 35 U.S.C. 102(e) as being anticipated by Grabowski (US 5,954,204). Grabowski discloses a blister package comprising a flexible cover and a

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flexible base. The cover is torn by finger pressure. Applicant's argument that the blister pack of Gabrowski cannot be kept in a rolled up position is not persuasive. The blister pack is made out of both flexible foil and flexible plastic material and hence is sufficiently flexible to be kept in a rolled up position.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 17 and 19 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Roulin et al in view of Troll et al or Gregory et al. Roulin et al disclose all of the elements, but lacks the convex shaped compartment as recited in claims 17 and 19. However, Troll et al suggest providing, for example only, a convex shaped compartment with a lid sheet thereover. Gregory et al also teach a compartmented package with convex shaped base layer. Hence, it would have been obvious in view of Troll et al or Gregory et al to provide a convex shaped compartment for the base sheet of Roulin et al to conform to the shape of the intended article. Applicant's argument concerning Roulin is inaccurate. The specification on column 1, lines 24-45 states that "The present invention...the so-called push through packs. Push-through packs are e.g. such that the lid material is of aluminum foil or an aluminum foil laminate. Aluminum foil is a preferred material for the lids on blister packs as the thickness of the material employed requires relatively little force for it to rupture..." Applicant further argues that one cannot gain

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access to the content due to the resistance and back pressure of the base layer. This is also not convincing. The traditional blister packages such as the ones for cold medication are made out of flexible cover and base. When one presses the foil inward, there is no resistance on the base and hence the foil would rupture. Companies such as Warner-Lambert Consumer Healthcare usually manufacture these types of packages. Therefore, the argument is not persuasive.

6. Claims 20-21 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over the references applied above with respect to claim 18, further in view of Hasegawa et al substituting for Official Notice. Roulin et al does not suggest using paper as the covering film. However, Hasegawa et al suggest, as an example, a blister pack with a sterilized paper cover. It would have been obvious in view of Hasegawa et al to use paper as the cover layer for the package of Roulin et al as conventionally selected by one of skill in the art suitable for the intended purpose.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners, M.P.E.P. 203.08. The **Group clerical receptionist number is (703) 308-1148** or the **Tech Center 3700 Customer Service Center number is (703) 306-5648**.


If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to Valerie Douglas at (703)308-1337.

For applicant's convenience, the Group Technological Center FAX number is (703) 305-3579 or (703)305-3580. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a PTO deposit account. Please identify Examiner Luong of Art Unit 3728 at the top of your cover sheet of any correspondence submitted.

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Inquiries concerning the merits of the examination should be directed to Shian Luong whose telephone number is (703) 308-2039. The examiner can normally be reached on M-TH 7:00 am until 4:00 pm (EST).

STL
September 23, 2002



Primary Examiner
Shian Luong
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